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10/786,637	02/25/2004	Richard Boedi	CH920030055US1	3093

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EXAMINER	
CHOI, PETER H	

ART UNIT	PAPER NUMBER
3623	

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04/06/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Notice of Non-Responsive Amendment

1. Newly submitted claims 33-40 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Applicant has cancelled the sole previously pending claim, claim 32 (Invention I), which was directed towards predicting passenger flow at a transportation facility based on:

passenger reservation data (which includes transport class, passenger gender, passenger booking country, and connecting transport information);

travel itinerary data (which includes hotel reservation data, booking country of travel, travel package data and car rental data); and

transportation facility-specific data (including gate allocation by arrival and departure, and actual arrival/departure times).

Applicant added new claims 33-40 (Invention II), which is directed towards predicting passenger flow through a specific zone of a transportation facility during a specified time period based on:

passenger reservation data (which is related to passenger trips); and

airport-specific data (which includes flight arrival/departure data and gate allocation).

Newly submitted claims 33-40 (Invention II) are directed towards an invention that is independent or distinct from the invention originally claimed for the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as predicting passenger flow ***for a specific zone during a specified time period***, whereas the subcombination I predicts passenger flow for a transportation facility (not specific to any particular zone or time period). Further, the subcombinations rely on a different subset of information to predict passenger flow. For example, subcombination I includes travel itinerary data, whereas subcombination II does not. Further, subcombination II specifies a time period for predicting passenger flow, whereas subcombination I does not. Subcombination I recites the steps of posting passenger flow information on a web site, assigning zones according to operational groups and physical locations, parsing passenger reservation data to remove confidential information, and billing the transportation facility, whereas subcombination II does not. See MPEP § 806.05(d).

2. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above

and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

As per MPEP § 821.03, [c]laims added by amendment following action by the examiner, MPEP § 818.01, MPEP § 818.02(a), to an invention other than previously claimed, should be treated as indicated by 37 CFR 1.145. As per 37 CFR 1.145, [i]f, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in 37 CFR 1.143 and 1.144.

3. The amendment filed on January 6, 2009, replaced claim 32, drawn to a previously elected invention, with claims drawn to a patentably distinct and non-elected invention, and is considered to be non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because newly submitted claims 33-40 represent a patentably distinct invention than that presented by the original claim (claim 32).

As per MPEP § 819, [t]he general policy of the Office is not to permit the applicant to shift to claiming another invention after an election is once made and action given on the elected subject matter. Note that the applicant cannot, as a matter of right, file a request for continued examination (RCE) to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined (i.e., applicant cannot switch inventions by way of an RCE as a matter of right). When claims are presented which the examiner holds are drawn to an invention other than the one elected, he or she should treat the claims as outlined in MPEP § 821.03. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 33-40 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

4. Consequently, no claims are pending for examination; therefore, the present amendment is deemed to be non-responsive. See CFR 1.111. Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of **ONE (1) MONTH or THIRTY (30) DAYS**, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER CHOI whose telephone number is (571)272-6971. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

April 3, 2009

/P. C./
Examiner, Art Unit 3623

/Jonathan G. Sterrett/

Primary Examiner, Art Unit 3623